

Continuation Sheet for form PTOL-413

Claims 10 and 15 were discussed in detail; some minor details of dependent claims such as 17 were discussed.

Regarding claims 10 and 15, Mr. Whitehead indicated that applicant did not believe that Fisher rendered obvious "the at least one mechanically tensile stressed layer arranged above the first layer", and further that layer 10 of Fischer is not capable of flexing in the direction of the first layer (which is layer 10). The examiner noted that in the first office action, the rejection to claim 10 indicated that "since layer 14 is a thin layer just above layer 10... it would flex towards the substrate... and 14 would thus flex in the direction of 10." (see page 8 of office action). It is thus the examiner's interpretation that layer 14 is the "at least one mechanically tensile-stressed layer". The examiner noted that Fischer does not disclose this feature of 14, but also believes that one of ordinary skill in the art at the time of invention would realize that 14 would be extrinsically tensile stressed. Fischer indicates that layer 10 is intrinsically tensile stressed. Because layer 14 lies directly on 10 and is attached thereto, if layer 10 experiences a force, layer 14 must also experience the force (tension), and thus 14 is thus extrinsically tensile stressed. There is nothing in Fischer to prevent the application of the laws of physics in this manner; i.e. Fischer does not disclose that 14 is compressively stressed to a level higher than the tensile stress of 10, in which case 14 would not become tensile stressed; nor does Fischer disclose that layer 14 is very

highly rigid or inflexible, which would highly negate the force of 10 upon it. Rather, since 14 is a thin layer, it is reasonable to expect it to experience the force from 10.

The examiner noted that the claim does not require the mechanically tensile stressed layer to be different than the second or third layers. Thus, it is reasonable to identify it as 14.

Mr. Whitehead asked if there were language that would overcome the Fischer reference in our estimation. We suggested a few options, such as requiring the first layer to not be mechanically tensile stressed, or requiring the mechanically tensile stressed layer to not be the same layer as the second or third layers.

Regarding claims 17 and 18, the examiner has previously indicated that the claimed subject matter was not shown in the figures. A discussion centered around claim 17, and Figure 11. The examiner's position is that the first layer is 4, the second layer is not shown, and that the third layer comprises sublayers 9a and 9b; we believe it would be beneficial if the second layer was shown in this figure, or a supplemental figure. The examiner noted that the language "the third layer is formed by a first sub-layer covered by a second sub-layer" is a bit ambiguous, due to the words "formed by". Does "formed by" mean "formed near"? It seems to be claiming that "the third layer comprises a first sublayer covered by a second sublayer", and the examiner suggests that the language "formed by" is removed and the language "comprises" is used instead.

/K.P./ 9/2/09

/Hsien-ming Lee/

Primary Examiner, Art Unit 2823

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